

**Board Meeting Minutes
April 24 & 25, 2003**

**Board for Professional Engineers and Land Surveyors
Hyatt Regency Islandia
1441 Quivira Road
San Diego, California 92109
(619) 224-1234**

Thursday, April 24, 2003

Board Members Present: Millicent Safran (President), Gregg Brandow (Vice-President), Arthur Duffy, James Foley, David Fruchtman, Stephen Lazarian, William Roschen, Elizabeth Warren, Michael Welch, Dale Wilson, and Edward Yu.

Board Members Absent: Andrew Hopwood

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Nancy Eissler (Attorney General Liaison Analyst), Cindy Fernandez (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 1:10 p.m. Roll call was taken, and a quorum was established.

Mr. Roschen arrived at 2:45 p.m.

2. Public Comment

There was no public comment.

3. Closed Session

The Board went into closed session at 1:15 p.m.

4. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed.

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Board approved the successful and unsuccessful appeals of the October 2002 Geotechnical and Structural Engineering Examinations.

Ms. Christenson reported that the Board adopted the Stipulation regarding Earl Fox McGuire.

Ms. Christenson reported that the Board discussed correspondence with NCEES regarding Examination Security Procedures.

5. Approval of Consent Items (Possible Action)

a. Approval of the Minutes of the January 23, 2003, Board Meeting.

Mr. Duffy requested that corrections be made to the January 23, 2003, Board Meeting minutes to more fully describe the corrections made to the November 14 & 15, 2002, Board meeting minutes.

MOTION: Mr. Wilson/Mr. Lazarian moved to approve the corrected minutes of the January 23, 2003, Board Meeting.

VOTE: 10-0, motion carried.

b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Duffy/Mr. Fruchtmann moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 10-0, motion carried.

6. Approval of Delinquent Reinstatements.

MOTION: Mr. Wilson/Mr. Welch moved to approve the Delinquent Reinstatements as follows:

Civil

1. Dave Fogerson

Reinstate applicant's civil license once he/she pays all required delinquent renewal fees.

2. Michael Wolfe

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Rules Examination.

Corrosion

1. Robert E. Moore

Reinstate applicant's corrosion license once he/she takes and passes the Board's Laws and Rules Examination.

Mechanical

1. Timothy D. Dugan

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Rules Examination.

VOTE: 10-0, motion carried.

7. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Wilson/Dr. Brandow moved to approve the Amended Handout Comity List.

VOTE: 10-0, motion carried.

MOTION: Mr. Foley/Mr. Wilson moved to withdraw approval for licensure by Comity for, Mr. Christopher James Dowse, as he was erroneously placed on the January 2003 Board Meeting Agenda.

VOTE: 10-0, motion carried.

14. Legislative

a. Discussion of Legislation for 2003, including but not limited to, AB 699, AB 1265, and SB 31 (Possible Action)

Mr. Duffy reported that there were three bills on which the Board should take a position and two bills that are on the "information only" list, as listed in the agenda packet.

MOTION: Mr. Foley/Dr. Brandow moved to take the following positions on legislation:

AB 1265	Watch
SB 31	Watch
SB 1078	Support

VOTE: 10-0, motion carried.

b. Status of Regulations

No report given.

9. Title Act Study Report (Possible Action)

Ms. Christenson reported that the Joint Legislative Sunset Review Committee and the Department of Consumer Affairs recommended that the Board appoint a Task Force to review and make recommendations to the Board regarding the Title Act Study.

Ms. Christenson recommended that the Board appoint a similar Task Force that would consist of representatives from the Legislature, DCA, Professional Societies, Consumer Protection Groups, and Board Members.

MOTION: Mr. Foley/Dr. Brandow moved to appoint a Task Force.

VOTE: 11-0, motion carried.

President Safran assigned the following Persons/Societies to the Task Force:

- CELSOC, Richard Markuson
- SEAOC, Lee Adler
- CLCPE, Don Risner
- PECG, TBD
- CPIL, Julie D'Angelo-Fellmeth
- DCA, TBD
- Senate B&P, Bill Gage
- Assembly B&P, TBD
- Public Member, Bill Roschen
- Current Board Member, Dr. Brandow
- Past Board Member, Steve Lazarian

10. NCEES Land Surveyor Model Law Definition (Possible Action)

Ms. Christenson reported that the Model Law, in Section 14 – Examinations, currently provides that the board may waive its state-specific examination for any person who only wishes to perform certain portions of the practice of land surveying – those that do not involve boundary surveying; however, any person who wishes to perform the portion of the practice of land surveying that involves boundary surveying must complete and pass the state-specific examination.

Ms. Christenson stated if the Board believes that a change to the current Model Law is required, staff recommends the following:

Amend Model Law Section 14 – Examinations as follows:

(d) The board may prepare and adopt specifications for the written examinations in engineering and surveying ~~or land surveying~~. They shall be published in brochure form and be available to any person interested in being licensed as a professional engineering or as a professional surveyor ~~or land surveyor~~. ~~The board may elect to waive any additional written examinations requirements for the performance of the activities described in Section 2(b)(5)(a) through (d) to facilitate mobility between jurisdictions.~~

In addition, staff recommends a minor amendment to Section 2(b)(5)(f) as follows:

“Making any survey for the division, subdivision, consolidation, or adjustment of any tract(s) of land.”

In keeping with the recommended amendments to Section 14, delete item (d) and re-letter the remaining subdivisions. Amend subdivision (h), as re-lettered, to refer to “items (a) ~~(e)~~ through (g).”

Add a new item (i) to read as follows:

“Determining and preparing the information shown or to be shown on any map or document furnished in connection with any one or more of the functions described in items (a) through (g).”

MOTION: Mr. Welch/Mr. Duffy moved to request that Ms. Christenson send a letter to, NCEES expressing changes/concerns to the Land Surveyor Model Law Definition.

VOTE: 11-0, motion carried.

17. Liaison Reports (Possible Action)

c. Technical and Professional Societies

Mr. Foley reported that he attended a CELSOC meeting in Rhonert Park and that Ted Fairfield, Andrew Hopwood, and Quang Vu also attended.

Mr. Foley also reported that CELSOC is very interested in what the Board is doing.

11. Strategic Plan (Possible Action)

Ms. Christenson reported that the Strategic Plan must be updated and approved by the Board each year. Due to budgetary constraints and limited staffing

resources caused by the hiring freeze, few items were accomplished. The items that were accomplished are:

- The first administration of the NCEES PLS examination along with a 4-hour state specific examination was administered in April.
- The transition of the SE examination to the NCEES SEII examination plus state specific examination by 2004 is on track.
- The Code of Professional Conduct regulations have been adopted by the Board and have been submitted to DCA for review
- The fee increase regulations have been adopted by the Board and have been submitted to DCA for review.
- The Title Act Study has been completed.
- Anticipate that the Bulletin will be published this Spring as well as an updated Law Publication and updated Guide to Building Officials.

Ms. Christenson stated that we again anticipate that further budgetary and staffing limitations will constrain the Board's activities over the next year. Therefore, in updating the Goals and Objectives for next year, the Board needs to keep this in mind.

Ms. Christenson recommended that the Board have a Strategic Planning Session in the fall.

MOTION: Mr. Foley/Dr. Brandow moved to adopt the Strategic Plan.

VOTE: 11-0, motion carried.

12. Examination/Qualifications

a. Proposed Contracting-Out of Exam Administration Services (Possible Action)

Ms. Christenson reported that NCEES formed an Examination Security Task Force to review several examination security issues faced by the NCEES as well as member boards over the past several years.

President Safran and Ms. Christenson attended a Board President's meeting where Examination Security Issues were discussed.

MOTION: Mr. Foley/Mr. Welch moved to release a Request for Proposal for the purpose of examination administration services.

VOTE: 11-0, motion carried.

Friday, April 25, 2003

Board Members Present: Millicent Safran (President), Gregg Brandow (Vice-President), Arthur Duffy, David Fruchtman, Stephen Lazarian, William Roschen, Michael Welch, Dale Wilson, and Edward Yu.

Board Members Absent: James Foley, Andrew Hopwood, and Elizabeth Warren.

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Nancy Eissler (Attorney General Liaison Analyst), Cindy Fernandez (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 9:10 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

There was no public comment.

8. Nomination of President and Vice President for 2003/04 (Possible Action)

Mr. Lazarian reported that the nomination committee met on Thursday, April 24, 2003 to discuss nomination of President and Vice President for 2003/04.

Mr. Lazarian gave a brief background history of former Governor Jerry Brown's appointment of Public Members to the licensing boards. Mr. Lazarian also explained that most boards have a rotation of Professional Member, Public Member for the position of Board President.

MOTION: Mr. Lazarian/President Safran moved to nominate Dr. Brandow as President for 2003/04 and Mr. Hopwood as Vice President for 2003/04.

VOTE: 9-0, motion carried.

13. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the changes to the fund condition dated March 26, 2003. Changes include a renewal revenue projected increase of \$171,759 and an application fee revenue decrease of \$95,424. President Safran questioned the \$129 expense amount listed under Actual FY 2001-02 expenditures. Ms. Thompson reported that this was a Year 2000 upgrade cost allocated to the Board for DCA work to upgrade information systems.

b. Fiscal Year 2002-03 Budget (Possible Action)

The Board's expenditure projection for FY 2002-03 as of February 2003 was \$7,127,292 with a projected \$148,381 savings for year-end. Ms. Thompson just received the expenditure reports for the month of March 2003. These projections have not yet been finalized but they do show travel will be higher than expected. This is likely due to the attendance of more Board members at Board meetings. Also, the Board just finalized the counts for the April 2003 exams that will increase the NCEES grading cost by \$20,000 more than projected. The impact of these increases should be reduced, however, by a lower than anticipated expense for SME's. Overall, Ms. Thompson projected that the savings should not drop below \$100,000 this FY.

Fiscal Year 2003/04 Budget (Possible Action)

Ms. Thompson reported that, to date, the projected balance for next FY after expenditures is \$4,146. This assumes the vacant Enforcement analyst position is filled, travel increases occur for the additional Board members, a \$50,000 expense for the special civil exam occurs, AG expenses increase by \$75,000, and no more than another \$15,000 in national exam grading fee increases occur for an exam population increase.

Next FY's budget will likely be affected by another round of budget cuts. All state agencies were recently told to submit 10% in personal services funding cuts for FY 2003-04. In the event these cuts become effective, the Board will experience an estimated \$68,000 deficit next FY. However, Ms. Thompson indicated that this deficit will likely be absorbed by reductions to the Board's Statewide and DCA prorata costs once these other agencies determine how their reductions affect prorata rates they charge. For example, this FY's statewide position cuts reduced the Board's required DCA and Statewide prorata costs by \$92,000. The Board could also cut its publications costs again to cover the deficit.

The proposed cuts submitted by the Board included 3.1 in vacant and unused position authority amounting to \$151,000, \$33,000 in temporary

help, \$20,000 in Board per diem, \$5,000 in Committee member pay, and \$3,000 in overtime. The total cuts identified amount to \$212,000 of the Board's personal services funds. All funding identified in the cuts beyond the vacant position funds was justified as it had not been fully expended in prior FYs. The exception was the overtime that is usually over expended. The directive issued for these cuts stated that unused vacant positions must be the first priority in cuts. All cuts beyond vacant position funding within personal services must also be justified for the amount cut.

c. Land Surveyor Consultant Contract:

The Request for Qualifications was submitted to the Department of Consumer Affairs for review on April 23, 2003. This contract expires December 31, 2003 of this FY. The RFQ process is very lengthy and takes several months to be completed. Ms. Thompson stated that the Bid Evaluations are planned to occur August 18–28, 2003. President Safran appointed Mr. Welch and Mr. Yu as committee members. In reviewing the timeframe chart, Ms. Thompson pointed out that the date for awarding the contract is planned for the first of October, 2003 which will allow another three months to get the contract in place.

d. FY 2004/05 Budget Change Proposal (Possible Action)

1. NCEES Exam Grading Fee Increase

The Board has been notified that the scoring fees for the Professional Engineer and Professional Land Surveyor exams will increase effective in FY 2004-05 to \$125. This is a \$30 per exam grading fee increase for the PE exams and a \$20 increase for the PLS exams. As the Board's projected savings in FY 2003/04 is less than \$5,000 and budget cuts are anticipated, the Board will not have adequate funds to cover these costs increases. Using the three-year average for the number of these candidates tested each year, the Board will incur an additional \$170,000 in costs in FY 2004/05 to grade these exams.

Ms. Thompson outlined the two additional alternatives to resolve the funding problem. One was to absorb the increase and the other to cancel the one of the special civil exams that are given twice each FY. Board members voted to approve Board staff to move forward with the request for additional funding.

The Concept Paper will be finalized within the next month into a Budget Change Proposal for FY 2004-05, which is due to DCA June 1, 2003.

MOTION: Dr. Brandow/Mr. Duffy moved to approve Alternative #1 identified in the FY 2003/04 BCP and for Board staff to move forward with preparation and submittal of the BCP.

VOTE: 9-0, motion carried.

15. Enforcement

a. Report on the April 24, 2003, Enforcement Committee Meeting

Mr. Lazarian reported on the Enforcement Committee meeting held the previous day. He advised that the majority of the meeting focused on discussing the proposed amendments to Board Rules 404.1 and 404.2.

b. Amendments to Board Rules 404.1 and 404.2 (Definitions of Responsible Charge) (Possible Action)

Ms. Eissler provided a handout showing the changes to the language in Board Rules 404.1 and 404.2 as recommended by the Enforcement Committee.

Ms. Eissler explained that following the Committee meeting, Dr. Brandow had provided an alternate suggestion for subdivision (a)(3), which was also shown on the handout. After discussing the two suggestions for this subdivision, the Board decided on the following language:

“Reviewing and Approving [Engineering/Land Surveying] Decisions. The [licensee] must review all relevant information before making [engineering/land surveying decisions. The [licensee] shall be physically present or shall review the information remotely through the use of communication devices.”

Ms. Eissler also summarized the other changes recommended by the Enforcement Committee, as follows:

The word “supervises,” and all forms of that word, should be deleted.

All of the things that “responsible charge” does not include should be listed in the final subdivision [(e)], rather than in various other subdivisions.

Subdivision (b): The phrase “as a test to” at the beginning of the subdivision should be replaced with “in order to.”

Subdivision (b): The phrase “equally qualified [licensees]” should be replaced with “licensees of the Board who are competent [within the branch of professional engineering/in the area of land surveying] most relevant to the project.”

Subdivision (b), second paragraph: The phrase “be able to clearly define” should be replaced with “be able to clearly express.”

Subdivision (c): The phrase regarding individuals legally authorized in other states should be removed.

Subdivision (c) – 404.1 only: The phrase “site specific adaptation of a standard design plan” should be replaced with “site specific adaptation of a previous design.”

Subdivision (c) – 404.2 only: The phrase regarding site specific adaptations should be removed.

Subdivision (d) should be entitled “Portions of Projects.”

404.2 only: Appropriate land surveying terminology should be added to subdivisions (a)(1)(B), (a)(2)(A), (a)(2)(C), (a)(2)(D), and (b), and inappropriate engineering terminology should be removed from subdivision (d).

Dr. Brandow suggested adding the word “directs” in place of the word “supervises,” which the Committee had recommended be removed. He also recommended that the word “accepts” be used in place of the word “approves.” After much discussion, it was agreed that the intent of the law is that the person in responsible charge must either personally make the final decisions or review and approve of the decisions recommended by others. Therefore, it is not necessary to include terms like “directs” or “supervises,” nor would it be appropriate to use the word “accepts,” since the regulations currently use the words/phrases “makes” and “reviews and approves.”

Dr. Brandow suggested that a new subdivision be added to (a)(2) between (B) and (C) to address the preparation of the engineering plans, calculations, and specifications. He stated that it seemed like that step was missing from the items currently listed. Mr. Welch agreed that similar language should be included in 404.2 for land surveying documents. After discussion, decided on the following language for the new subdivision (a)(2)(C) in 404.1 and (a)(2)(D) in 404.2, and that the remaining subdivisions would be relettered accordingly:

404.1 (a)(2)(C)

“The preparation of engineering plans, specifications, calculations, reports, and other documents for the engineered works.”

404.2 (a)(2)(D)

“The preparation of maps, plats, land surveying reports, descriptions, and other land surveying documents furnished in connection with the land surveying services.”

MOTION: Mr. Duffy/Mr. Welch moved to approve the proposed amendments to Board Rules 404.1 and 404.2, as shown in the handout and agreed upon during the discussion, and to direct staff to proceed with the formal rulemaking process.

VOTE: 9-0, motion carried.

**16. Technical Advisory Committee Reports
(No Committee Meetings were held)**

a. Board Assignments to TACs (Possible Action)

President Safran reported that because of budget cuts, there will only be one meeting for each Technical Advisory Committee per fiscal year.

Ms. Christenson asked Mr. Duke for clarification on what constitutes a meeting of a committee appointed by the Board. Mr. Duke explained that three or more members of the committee constitutes a meeting which must be noticed to the public. He also explained that the TAC members can discuss issues with each other and staff, even via e-mail, as long as the TAC members do not reach a collective decision; if they do so, then it constitutes a meeting which must be noticed to the public.

Dr. Brandow suggested that, after every Board meeting the TAC members are sent information and asked for their comments to bring back to the next Board meeting.

17. Liaison Reports (Possible Action)

a. ABET

No report was given.

b. NCEES

•Western Zone Meeting, May 15-17, 2003

Dr. Brandow reported on this item.

18. President's Report

President Safran reported that she and Ms. Christenson attended a President's Board meeting on February 14, 2003. The topic of discussion was Examination Security.

President Safran also reported that Robert Krebs, P.E., L.S., President of NCEES, formed a Task Force for Education Objectives.

19. Executive Officer's Report

1. Administration Report

a. Executive summary report

Ms. Christenson reviewed the information contained in the agenda.

b. State budget

Ms. Christenson advised that she had no further report beyond what was reported by Ms. Thompson under the Administrative report.

2. Personnel

a. Hiring freeze

The hiring freeze is still in effect.

b. Vacancies

Ms. Christenson reported that we have one more vacancy since the last Board meeting in January.

3. Enforcement/Examination/Licensing

a. College Outreach

No report given.

b. Report on April Exam Administration

Ms. Christenson reported that the Examination Administration for April 2003 went a lot smoother than the October 2002 examination administration.

Ms. Christenson also reported that there is a Proctor shortage due to the Budget and Hiring Freeze. CSLA members helped proctor the Sacramento examination site for the April 2003 exam.

4. Publications/Website

a. Website activity

No report given.

5. Other

a. DCA update

20. Approval of Board Travel (Possible Action)

Ms. Christenson reported that Out of State travel was not approved, so anyone traveling out of state will be required to pay his or her own expenses.

21. Other Items Not Requiring Board Action

a. Next Board meeting: June 26 & 27, 2003, Sacramento , CA

President Safran presented Proclamations to Mr. Lazarian, Dr. Chen, and Ms. Hoffman.

22. Adjourn

The Board adjourned at 10:55 a.m.

PUBLIC PRESENT

Tom Stout, CSPE
Richard Markuson, CELSOC
George Shambeck, CLSA
Masood Omar, PECG